

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

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Mr. Kurt A. Benshoof,  
A.R.W. By and Through His Father, Mr.  
Kurt A. Benshoof, Brett Fountain, Urve  
Maggitti,

Plaintiffs,

v.

Case No. 2:24-cv-00808-JHC

ANDREA CHIN, et al.

Defendants.

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**MOTION FOR EXTENSION OF TIME TO SERVE DEFENDANTS**

Plaintiffs respectfully move this Court for an Order extending the time to complete service of process upon Defendants who have not yet been served in this action. This motion is based on good cause as set forth below.

Procedural History

1. On February 11, 2025, this Court issued an Order [Dkt. # 68] granting Plaintiffs leave to amend their complaint [Dkt. # 63].
2. On February 12, 2025, Plaintiffs filed the First Amended Complaint.
3. The 90-day deadline under Federal Rule of Civil Procedure 4(m) for completing service of process is May 12, 2025.

Basis for Motion

4. On February 24, 2025, Co-Plaintiff Kurt Benshoof was taken into custody during his sentencing hearing in Seattle Municipal Court, before the said hearing was over, despite the the fact that the court of limited jurisdiction had no statutory authority to prosecute Co-Plaintiff Benshoof, had no statutory authority to sentence him and clearly have no statutory authority to incarcerate Benshoof who was immediately placed into solitary confinement, without proper administrative procedure in violation of due process, and continues to be held in the solitary

confinement incommunicado in the King County Correctional facility in Seattle, WA. Benshoof's incarceration has significantly limited Plaintiffs' ability to coordinate service.

5. Co-Plaintiffs Brett Fountain and Urve Maggitti reside out of state and are continuing efforts to locate accurate addresses for all named defendants. This has also delayed the process of service.

6. Good cause exists for an extension of time. The Plaintiffs are actively attempting to effectuate proper service but require additional time due to circumstances outside their control.

7. Under Federal Rule of Civil Procedure 4(m), if good cause is shown, the Court must grant an appropriate extension.

#### Legal Authority

##### **Federal Rules of Civil Procedure Rule 4 (m):**

**Time Limit for Service.** If a defendant is not served within **90 days** after the complaint is filed, the court—on motion or on its own after notice to the plaintiff—must dismiss the action without prejudice against that defendant or order that service be made within a specified time. But if the plaintiff shows good cause for the failure, the court must extend the time for service for an appropriate period.

8. Service of process is the method by which federal courts assert their authority over the defendants. ***Omni Capital Intern., Ltd. v. Rudolf Wolff & Co., Ltd.***, 484 U.S. 97, 104, 108 S. Ct. 404, 98 L. Ed. 2d 415, 9 Fed. R. Serv. 3d 691 (1987)

9. The trial court's decision about whether or not good cause exists is reviewed for abuse of discretion. ***Ayres v. Jacobs & Crumplar, P.A.***, 99 F.3d 565, 568, 35 Fed. R. Serv. 3d 1125 (3d Cir. 1996).

10. ***In re Sheehan***, 253 F.3d 507, 513 (9th Cir.2001) is a key case in the Ninth Circuit that affirms the court's discretion to extend the time for service even without a showing of good cause (U.S. v. 2,164 Watches, More or Less Bearing a Registered Trademark of Guess?, Inc., 366 F.3d 767 (2004). A district court may, for instance, extend time for service retroactively after the 120-day service period has expired. Mann v. American Airlines, 324 F.3d 1088, 1090 (9th Cir.2003)

11. The Ninth Circuit's approach aligns with the standards referenced in ***Omni Capital Intern., Ltd. v. Rudolf Wolff & Co., Ltd.*** and ***Ayres v. Jacobs & Crumplar, P.A.***, where courts are required to extend time for service if good cause is shown and have discretion to extend time even absent good cause (***In re Barr***, 217 B.R. 626 (1998))



**CONCLUSION**

Plaintiffs respectfully move the Court to grant a 60-day extension of time, up to and including July 10, 2025, to complete service of process on all remaining Defendants pursuant to Rule 4(m) of the Federal Rules of Civil Procedure.

A proposed order is submitted herewith for the Court's convenience.

Respectfully submitted,

*April 1, 2025*



Urve Maggitti, Co-Plaintiff  
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Brett Fountain, Plaintiff  
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**ACKNOWLEDGMENT  
AFFIDAVIT  
(Verification)**

STATE OF PENNSYLVANIA )  
COUNTY OF CHESTER )

I, Urve Maggitti, the undersigned Affiant hereto, do hereby declare under penalties of perjury under the laws of the Commonwealth of Pennsylvania and the United States of America, that the foregoing accounting of facts are true and correct to the best of my current knowledge and belief.

I am over the age of 18 years of age, am a resident of the Commonwealth of Pennsylvania, have personal knowledge of the matters of this affidavit, and am capable of making such affidavit.

Pursuant to 28 U.S. Code § 1746 (1) I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on

April 11 /2025

Signed: \_\_\_\_\_

Urve Maggitti

Notary as JURAT CERTIFICATE

State of Washington County of King

BEFORE ME personally appeared Urve Maggitti who, being by me first duly sworn, executed the foregoing in my presence and stated to me that the facts alleged therein are true and correct according to her own personal knowledge.

\_\_\_\_\_  
Notary Public,

My commission expires:

04-01-2029



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**CERTIFICATE OF SERVICE**

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**Julie Salle**  
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**Pascal Herzer**  
*(Defendant)*